IN THE HIGH COURT OF UTTARANHCAL AT NAINITAL

Writ Petition No. 934 (S/S) of 2005

1. Sri Manoj Kumar, S/o Sri Rajendra Prasad Pohkriyal, R/o Gumaniwala, Rishieksh, District- Department.
2. Sri Tika Ram Chamoli, S/o Sri Ram Prasad Chamoli, R/o Village-Dudhupani Gumaniwala, Rishkesh, District – Dehradun.

…….Petitioners

V e r s u s

1. Principal Pandit Lalit Mohan Sharma, Government Post Graduated College, Rishikesh.
2. Joint Director, Higher Education, Higher Education Directorate, Uttarakhand, Haldwani, Nainital.
3. Secretary Higher Education, Government of Uttaranchal, Rajpur Road, Dehradun.

…….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Nirdesh Khandelwal, learned counsel for the petitioner and learned standing counsel for State of Uttaranchal on behalf of respondents.

C.M. Application no. 1364 of 2006 was filed on behalf of petitioner no. 2 for withdrawal of writ petition. Application was allowed by this court on 20.02.2006 and petition was directed to proceed on behalf of petitioner no. 1.

Today the case has come up before the court and the parties are agree to dispose of the writ petition finally.

By means of this writ petition, the petitioner, has prayed for the following reliefs:

(a) issue a writ, order, or direction in the nature of Mandamus commanding to respondents to regularize the services of the petitioners on the post of Class IV employee as Paricharak in the office of respondent no. 1 and pay the regular salary in the pays scale of Rs. 2550-3200 to the petitioners on the said post in the department.

(b) Any other and further, order this Hon'ble Court may deem fit and proper in the circumstance of the case;

(d) award the cost of the writ petition to the petitioners.

The submission of the learned counsel for the petitioner no. 1 is that petitioner was engaged on daily wage basis by the Sports Committee in the year 1997 and is still working on the post. However, he is not being paid salary against the post.

Counter affidavit has been filed by the respondents wherein it is specifically stated that the petitioner was never appointed by the respondent against any vacant post on the contrary there was a resolution of Sports Committee to engage the petitioner on daily wage basis for maintenance of sports field and for that he has been paid wages for the period during which petitioner was engaged by the Sport Committee.

Learned counsel for the petitioner has submitted that petitioner has not been paid wages. He has further prayed that petitioner's services may be regularized on the post of Paricharak as he is working since 1998.

Learned counsel for the respondents has submitted that there is no post of Paricharak against which the petitioner, who was working as daily wager, can be regularized. Respondents have specifically stated that there is no post of Paricharak against which the petitioner was engaged on daily wage basis.

Respondents have further stated that wages were paid to the petitioner for the period during which he has worked.

During the course of argument learned counsel for the petitioner has confined his prayer that he has already filed representation before respondents on 28.04.2005 (Annexure no. 2/1 to the writ petition) and respondents be directed to take decision on the representation of the petitioner.

Prayer in innocuous. Consequently, I direct respondent no. 1 to take the decision on the petitioner's representation dated 28.04.2005 filed as Annexure No. 2/1 to the writ petition within a period of six weeks from the date of receipt of certified copy of this order.

With this direction the writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J)

June 08, 2006
SKSharma